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File No. 9891/36

P.W DEPARTMENT

K BRANCH.

B CLASS

Subject:— State Electricity Board

Formation & functions of

B [K] - 1949

File No. 9891/36 — K

Etd, Seatt. Slip. 24 A

G.R., G.D., No. 2408, dated 22-6-22.]

Correspondence

DOCKET SHEET

Subject :—

File No. 9891/36

P.W DEPT.

K BRANCH.

References :— Original file is sent to Maharashtra

Date.	To whom sent.	Notes and instructions.

El. Br. & E.B. (I). P. W. D.

Submitted.

2. These papers deal with the question of formation of the Provl. Ely. Board under the provision of the Electricity (Supply) Act, 1948. Sections 5 to 14 in Chapter III of the Act deal with the constitution and composition of such Boards. Attention in this connection is invited to the general observayion made by the G. of I. in p aras. 3-6 of their letter No . El. II/1(10), dt. the 15-10-1948. While stressing the need for the formation of the Ely. Borads as early as possible , the G. of I. have observed that the constitutation of these Boards by the Provl. Govts. is a matter which requires their most earnest consideration and it is essential that the members of the Board should be men of of the highest integrity and competence and that some of them should combine high engineering. skill with wide administrative experience.

3. Under sub-section 4 of section 1 of the Act the Provl. Ely. Boards are to be constituted within a period of two years from the 10-9-1948 i.e., by 10-9-1950, unless a further extension of time has been granted by the Central Govt.

4. Section 5 of the Act provides that the Board shall consist of not less than 3 and not more than 7 members appointed by Provl. Govt. All these members shall be full time members of which one shall be a p erson of proved administrative ability and commercial experience. one shall be an electrical engeer with wide experience and one shall be an accountant with experience to ely. supply industry or other public utility. One of the members possessing any of the qualifications specified above shall be appointed to be the Chairman. No qualifiestions in respect of ⅞ other members have been laid dow-n. But as observed by the Govt. of I. they are to be men of highest integrity and competence and some of them should combine high engeering skill with wide administrative.....

administrative experience.

5. Section 8 provides that subject to the provisions of the Act the Chairman and members of the Board shall hold office for five years provided that on the first constitution of the Board the Chairman shall hold office for seven years and one of the members shall be appointed to hold office for 3 years only. Members are eligible for reappointment.

6. Under section 78 of the Act the Provl. Govt. has the power to make rules for the remuneration allowances and conditions of services of members of the Board.

7. The El. Commr. with the Govt. of Bombay, was requested to submit his remarks on the constitution of the Provl. Board - vide O.N. on pp. ante and his proposals in the matter will be found on pp.; ante.

8. The first question to be decided is to fix up the number of members of the Board. The Act provides minimum of # 3 and maximum of 7. The El. Commissioner, is of opinion that the Board should, for the present consist of 3 persons including the Chairman. The provision of maximum of 7 members in the Act is apparently made to meet the needs of a large Province like Bombay. It is desirable that the Board in this Province (jurisdiction of which has been extended to the merged States) should at least to begin with, consist of 5 members including the Chairman. The point is for orders.

9. The second question to be decided is to lay down general rules for remuneration, allowances and conditions of the members of the Board including the Chairman, vide Section 78(2) of the Act, the specific cases being then considered in the light of these rules. Following remarks are offered in that connection.

10. Salary of the Chairman and Members of the Board:-

The El. Commr. observes that it is understood that the Chairman of the Damodar Valley Corporation gets Rs. 4,000 p.m. and the members draw Rs. 3,000 p.m. The salary of the Chairman of the Bombay Public Service Commission is Rs. 2,750 p.m. and other members get a salary of Rs. 2,000 p.m. A member who is a retired Govt. servant and is in receipt of a pension gets the above sa lary in addition to his pension. The El. Commr. has observed that this question of salary of the first Chairman of the Board does not arise at present as it is governed by the existing agreement. This point in relation to the appointment of the first Chairman is noted hereafter in para 16 below but it is necy. to fix what the salary of the Chairman should be in general.

As regards the salaries of other members the el. Commr. reports that it will not be possible to recruit suitable persons on a lower pay than Rs. 3,000 p.m.

It is for consideration what should be the maximum limits for the salaries of the Chairman and the members of the Board. It is appropriate that the Chairman should get some what higher salary than the members. Provisions should also be made to permit a member of the Board who is a retired Govt. servant to receive his pension in addition to his salary.

11. Leave. :-

The El. Commr. has suggested that leave and leavy s alary to the Chairman and members of the Board should be the same as are admissible to the Chsirman and members of Bombay Public Sercice Commission. Vide Rules 8 & 9 of the Bombay Public Service Commission (Conditions of service) regulations. The El. Commr.'s suggestion may be accepted.

12. Provident Fund; :-

The El. Commr. suggests that all the members of the Board including the future ~~the~~ chairman should be entitled to contribute to the Consributory

Provident.....

Provident Fund of Govt. to which the Board should contribute an amount equal to that paid by the subscriber subject to a maximum of 6¼%.

No. provision for Provident Fund is made in respect of chairman and members of the P.S.C. except that a member who at the date of his appointment was in services of the Crown in India and prior to that date had been admitted to the benefits of any provident fund maintained by Govt. is held eligible after appointing on the commission to continue to subscribes to the said fund upon the same terms and conditions and subject to the same rules as previously to the date of the age of superanuation vide rule 11 of the Bombay P.S.C. (conditions of service) regulations. It is for orders whether the El. Commr's suggestion may be accepted. in u.o. consultation with the P. & S.D. and the F.D.

13. Travelling allowance :- The El. Commr. suggests that all members of the Board including the Chairman should be entitled to travelling allowance for journeys performed for the service of the Board on the scale provided for in the rules of Govt. applicable to the class of officers of Bombay Govt. of corresponding status. This suggestion may be accepted u.o. consultation with the F.D. The Chair man and other members of the P.S.C. are entitled for journeys made by them in the performance of their duties to such travelling allowance and at such rates as are for the time being admissible under the Bombay Civil Services Rules to Heads of Major Deptts.

11. Termin ation of employment :- Section 10 of the Act provided that the Provl. Govt. may suspend from office for such period as it thinks fit or remove from office any member of the Board who

(a) is found to be lunatic or becomes of unsound mind; or

(b) is adjudged insolvent; or

(c) fails to comply with provisions of section

(d) becomes or seeks to become a member of the Central of any Provl. Legislature or any local authority; or

(e) in the opinion of the Provl. Govt. has failed or is unable to carry out his duties s o as to render his suspension or removal as the case may be necy.; or

(f) is convicted of an offence involving moral turpitude.

Please see in this connection para. 8 of the El. Commr.'s note. In the general rules we may p erhaps provide that no compensation will be payable by Govt. for either removal or suspension of a member for any of the reasons (a) to (f) mentioned above.

As regards notice for termination of employment by Govt. it seems if it is only necy. to provide for such notice in the general rules in respect of items (e) only and it is for consideration provision for three months notice by Govt. may be made in that respect.

The chairman or members of the Board may perhaps desire to terminate their employment of their own accord for reasons other than those mentioned above, e.g. ill health , Provision for notice of three months by the member concerned may be made in the general rules to meet such contingency.

15. Subject to the orders on the general issues raised above following remarks are made in respect of the specific proposal of the El. Commr. to form board of three members including chairman.

16. Chairman :- Please see the agreement entered into with Mr. Advani by Govt. under G.R. No. 6786/36, dt. the 14 -8-1945. Under the provisions of that agreement, which is for a period of five years commencing from the 21-5 -1946, Mr. Advani is to be appointed as Chairman of the Board, - vide in this connection noting underlying the agreement. Under section 8 of the Act the

period.....

period of appointment of the first chairman shall be 7 years from the date of his appointment as such. Mr. Advani's age is at present 57 years.

@ Mr.Advani will therefore continue to be a chairman of the board for a period of 7 years .

17. To comply with section 8 and at the same time to give flexibility to the continuance of his appointment as chairman after the 21-5-1951 (the date on which his present agreement expiers) Mr. Advani suggests

(a) that his appointment for the remaining period of 7 years, i.e. after 21-5-1951 , may be subject to three calender months' notice on either side;

(b) that no compensation should be payable by Govt. for the termination of his service any time after the 21-5-1951, and

(c) that other terms of employment for the remaining period of 7 years beyond the 21-5-1951 may be the same as in the present agreement except leave which may be granted on the same basis as is admissible to the chairman of the B'bay P.S.C.

18. In accordance with the provision of caluse 4 of the agreement with Mr. Advani his remuneration during the terms of his employment (i.e. for 5 years from 21-5-1951) either as El. Commr. or as Chairman of the Board shall be Rs. 4,000 p.m. (inclusive of pension) plus a conveyance allowance of Rs. 150 p.m. the latter subject to the condition that he maintains a motor car.'

Clause 8 of the agreement stipulates that from and after the date the employee assumes charge of the office of the Chairman of the Board the terms and conditions of service (including leave) of the employee will be regulated in accordance with the provisions of the Ely. Supply Act, 1948 and the rules framed thereunder.

19. In view of the above mentioned provisions of clauses 4 and 8 of Mr. Advani's agreement it is clear that while Govt. will have to pay him as Chairman at Rs. 4,000 p.m. plus a conveyance allowance upto the 21-5-1951 his remuneration after that date and the other

terms of conditions of his service from the date of his appointment as Chairman can be regulated in accordance with the general rules proposed to be laid down above. Subject to the confirmation of this view by the R.L.A. the remuneration and other terms of service of Mr. Advani as Chairman may be fixed accordingly.

20. The El,. Commr. has suggested that Mr. T.J. Michandani, the present Chief Engineer of the Electric Grid Deptt. may be appointed as a second member of the Board for a term of 5 years and that his appointment as a member of the Board upto the 13th February 1950 (the date on which his present contract expires) may be on the terms of his present contract and thereafter his pay may also be Rs. 3,000 p.mm as at present and leave, provident fund, etc. regulated in accordance with the general proposals in paras. 7 to 10 of his note.

If Govt. decides to appoint Mr. Mirchandani as a second member, his salary etc., may be decided in accordance with the general rules proposed above. It will be open to Mr. Mirchandani to accept these terms or to continue to serve as C.E. under the Board for the period of his agreement, which is for five years from the 14-2-45.

31. The El. Commr. has suggested that the post of the 3rd member who must be an accountant with experience of electricy supply industry or other public utility should be filled in by private invitation, salary offered being fixed at figure not exceeding 3,009 p.m. - vide para 5 of the El.Commr's note. This appointment may also be decided in accordance with the general rules proposed above.

22. On receipt of orders on the foregoing paras the papers will be refd. to the P. & S.D. and the F.D.

Id. S.G.J.

COPY

9891/36

P.W.D.

Formation of the Provincial Electricity Board.

General.

The Dominion Legislature enacted the Electricity (Supply) Act, 1948, in Septr. '48. The Provl. Ely. Boards to be formed under the provisions of the Act constitute the fulcrum on which hinges the entire scheme of 'Grid' development as foreshadowed in that Act. These Boards have been charged with the duty of constructing and working the Provl. Grids and for this purpose have been endowed with powers to increase the available supplies of energy by operating publicly-owned generating stations and transmission lines and by co-ordinating and directing the activities of existing licensees into a co-operative pattern designed to secure maximum production of electricity at the minumum cost. The operation of the entire Act, excepting a few provisions relating to the formation of the Central Electricity Authority (by the Govt. of India) and regulation of licensees charges to consumers, is dependent on the formation of the Provl. Electricity Boards.

Provisions under the act.

2. Under sub-section 4 of section 1 of the Act the Provl. Ely. Boards are to be constituted within a period of two years from the 10-9-48, i.e. by 10-9-1950 unless a further extension of time is granted by the Central Govt. In view of the fact that the Boards have been vested with powers fraught with greatest significance to the life of the community it is the desire of the Central Govt. that they may be established as early as possible.

3. Section 5 of the Act provides that the Board shall consist of not less than three and not more than seven members appointed by the Provl. Govt. All

All these members shall be full-time members of which one shall be a person of proved administrative ability and commercial experience, one shall be an elecl. engineer with w ide experience and one shall be an accountant with experience ~~of~~ of the ~~elecy~~ elecy. supply industry or other public utility. One of the three members possessing any of the qualifications specified above shall be appointed to be the Chairman.

Section 8 of the Act provides that Chairman and Members of the Board shall hold office for five years provided that on the first constitution of the Board the Chairman shall hold office for seven years and one of the members shall be appointed to hold office for three years only.

Under section 78(2) (a) of the Act, the Provl. Govt. has to frame suitable rules for regulating remuneration, allowances and conditions of service of the members.

4. From the above, it will be clear that the Board must consist at least of three members with the following qualifications any of whom can be appointed as Chairman of the Board:-

(i) Person of proved adminsistrative ability and commerc ial experience.,

(ii) Electrical Engr. with wide experience, and

(iii) Accountant with experience of electricity supply industry of other public utility.

The appointment of the first Chairman will be for a period of seven years, that of one member will be for a period of three years, and of the remaining member or members for a period of five years.

5. No qualifications in respect of other members,. i.e over and above three members refd. to in the preceding para. have been laid down in the Act but the G. of I. have observed that it is essential that members of the Board should be men of highest integrity and competence and some of them should combine high engineering skill with wide

administrative experience. It is open to the Provl. Govt. to appoint a Govt. servant as a member of the Board. There is nothing in the Act preventing such an appointment.

6. The Maratha Chamber of Commerce and Industries has requested for representation on the Board; so also the Govt. of Baroda (whcih is now to be merged with this Province). Specific provision for representation of such interests as commerce, local self-Govt., electricity supply industry, transport, agriculture, is, however, made on the Provl. Electricity Councils which are to be formed under section 16 of the Act. Regional interest can be represented on the local advisory committees to be formed under section 17 of the Act. These two bodies are popular agencies intended to review constantly the work done by the Provl. Ely. Board.

Urgency of the formation of the Board.

The North Gujarat Electtic Grid Scheme, which is at present under execution, is exp ected to start supplying power at the end of 1949. It will function by the export of power taken from the power house of the Ahmedabad Electricity Coy. The fihancial forecast of the scheme is based on the assumption that the Coy's station at Ahmedabad will become a "controlled station" under the Electricity (Supply), Act, 1948, and power will be available from it under the terms of that Act. Consequently it has not been considered necy. to negotiate amy terms for the purchase of bulk power from that Coy. Before assuming control of the licensee's station the Board must give a notice in writing to the licensee and fix a date which will be called "the date of control" being the first day of a year of account of the licensee. The A'bad Ely. Coy's next year of account commences on the 1st October 1949. It is, therefore, necy. that the Board should be formed sufficiently early before that date. This Govt. has committed to give supply

to the.....

to the Baroda Dist. of Baroda Govt. under the scheme on a date not later than the end of 1949 provided that the suppliers of principal equipment keep to their dates for the deliveries of equipment.

In the event of the Board not being formed before the above date the only alternative for obtaining the power from the Ahmedabad Electricity Company to meet the requirements under the North Gujarat Electric Scheme is to negotiate with them and arrive at an arrangement which will be fair to both the parties with due regard to the previsions of the Ely. (Supply) Act 1948. This will have to be done from now, if the Board is not to be formed by the above date.

Recommendations of the Elect. Commr. re: the composition of the Board.

8. The Elect. Commr. with the Govt. of Bombay has recommended that for the present the Board should consist of 3 persons including the Chairman possessing qualifications mentioned in para. 4 above and has suggested the following personnel:-

1.	Chairman: (Person of proved administrative ability and commercial experience).	Elect. Commr. himself.
	Members.	
2.	Elect. Engr. with wide experience.	Mr. T.J. Mirchandani (present C.E., Electric Grid).
3.	Accountant with experience of electricity supply industry or other public utility.	(To be filled in by private invitation).

In view of the urgency indicated in para. 7 above, he has further suggested that the formation of the Board need not await till all the three members are available and that it can function with Chairman and one member, the third member being appointed later.

9. The agreement entered in to with Mr. Advani the present Elect. Commr. expieres on the 21st May 1951. (It is for a period of 5 years commencing form the 21.5.46)

Under the provisions of the agreement Mr. Advani is to be appointed as Chairman of the Board. Under section 8 of the Act, the period of appointment of the first Chairman of the Board shall be 7 years. Mr. Advani will, therefore, normally continue to be Chairman of the Board for a period of 7 years from the date of his appointment as such. Mr. Advani's age at present is 57 years.

10. The points for consideration are whether steps should now be taken for the formation of the Board and of how many members it should consist of. Detailed proposals for regulating remuneration, allowances and conditions of service of the Chairman and Members will be put up later in consultation with the finance & Political and Services Deptts. They are at present under consideration in this Department.

Id. S.G.J.
23-3-49.

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------Copy of the Secy. (I)'s note.

The North Gujarath Elec. Scheme invisages the obtaining of power from the present electric station of the Ahmedabad Ely. Co., and the financial forecast is based on the station being a 'controlled' station, which will only happen if the board is formed and sufficient notice is given to the company. Otherwise the rates of supply of energy will have to be negotiated. It seems therefore, desirable to form the Board as early as possible. After this is approved, the formation of the Board will have to be decided.

The Elec. Commr. has suggested two names including his own name according to the terms of his agreement. If that agreement is to be allowed to run, I suggest that a one man Board be appointed for the present till the date of termination of his agreement. An accounts member may be given to the chairman, after selecting a suitable person. Mr. Advani is an Electrical Engineer and this will meet

meet the Govt. of India's direction that the first chairman should be an electrical Engineer with sufficient administrative experience.

Later on the Board should compose of five men in all. (1) The Chairman with electrical experience. (2) A Civil engineer with irrigation experience (3) An accounts officer and (4) & (5) two men selected from non officials for their business acumen and integrity.

Id. M.P.G.
24.3.49.

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Office of the R.L.A.

The question raised for the R.L.A's consideration is whether it would be legally feasible to appoint the Electrical Commissioner with the Government of Bombay as ex-officio Chairman of the Provincial Electricity Boar d constituted under section 5 of the Electricity Supply Act, 1948, so that when Mr. Advani ceases to be the Electrical Commissioner, he will authmatically cease to be the Chairman of the Board despite the requirement of the proviso to section 8 that on the first constitution of the Board the Chairman shall hold office for seven years.

2. The answer to this question is in the negative for the following two reasons.

(1) Mr. Advani was originally appointed as officer on special duty under the agreement dated the 21st day of September 1945, the effect of which in relation to the constitution of the Board has already been considered in R.L.A's opinion dated 18th August 1949. It appears from the P.W.D. file No. 6786/36-II-1945-1947 that this designation, namely, the Officer on Special Duty, was changed into

the designation.....

t he designation 'Electrical Commissioner with the Government of Bombay.'. A supplementary agreement was made to the effect that the expression "Officer on Special Dut-y" shall wherever it ocurs in the service agreement be deemed to include the present designation of the employee, namely , the Electrical Commissioner with the Government of Bombay. Under clause 1 of the original service agreement, the Government was to employ and Mr. Advani was to serve the Government as Officer on Special Duty as from the said 21st day of May 1945 until the constitution of the Board; and under clause 2, from and after the date of the constitution of the Board, Mr. Advani was to serve as its Chairman. The various clauses and the whole tenor of the agreement clearly shows that the appointment as Officer on Special Duty was to come to an end on the date the Board was constituted, and Mr. Advani assumed office as its Chairman. There being no separate post of Electrical Commissioner with the Government of Bombay, it, therefore, follows that the moment the Board is constituted, the appointment of the Electrical Commissioner will terminate, and that it would be impossible to provide that the holder of the post of the Electrical Commissioner for the time being shall be the Chairman of the Board. The appointment of a person ex-officio presuppos es that the office, by virtue of which he is appointed, continues. That would not be the case here, and, therefore, the appointment ex-officio would not be possible.

(2) There is one other objection which is more formidable. Under sub-section (3) of section 5 of the Electricity Supply Act, 1948, all members of the Board shall be full-time members, which means that the Chairman or any member cannot hold any other office under Government. Moreover, the Chairman will be the Chairman of a Board which is a body corporate, and it would be contrary to the intention of the Act that he should hold another

office.....

office in the service of Government. To appoint a Government servant, by virtue of his office, the Chairman of the Board would be tantamount to engrafting a new clause on section 5 inconsistant with its original intention, which the Provincial Government exercis ing the pow ers under that section is not competent to do.

Id. 16.4.49.

Remembrancer of Legal Affairs.

For names mentioned by R.L.A., it would not be possible to constitute the Elec tricity Board with the Electricity Commissioner in its ex-offico member or Chairman. In the circumstances steps are being taken to appoint Ruling Committee under Section 57, Electricity Supply Act, 11/48. This question was placed for consideration at the informal conference of Honourable Ministers this morning.

The papers are to be returned to me.

Id/-
16-9 -49.

H.M. (Dir) Id/- 17.9.48.
H.M. (B.C. & Reh) Id. 18/9
H.M. (L.S.G.) Id/- 21-9-49.
H.M. (A & F) Id. 21.9.49.
H.M. (Labour) Id. 19/9
H.M. (F & D). Id. 22-9-49.
H.M. (C.S.D.) Id. 22/9
H.M. (Recm. & Exercise) Id. 23/9
H.M. Health Id. 5-10-49.
H.M (R)
H.P. Id. 23/9.

In view of the discussion with question of appointing the Rating Committee if the contractor raised by the hic-ac M.N.C. Setalvad within this file may await the reference to the Govt. of India with the matter and that Govt's reply thereto.

Id/-
8.10.49.

Id/-

10-10-49.

Secy. & C.E. (I).